

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Isabelle James	Team: Squad #9	CCRB Case #: 201703393	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 04/23/2017 12:30 AM	Location of Incident: the Speedway Gas Station	Precinct: 44	18 Mo. SOL 10/23/2018	EO SOL 10/23/2018	
Date/Time CV Reported Sun, 04/23/2017 5:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/01/2017 11:46 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Harris Haskovic	27534	953953	044 PCT
2. SGT Miroslav Maric	02674	932957	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Miroslav Maric	Abuse: Sergeant Miroslav Maric stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.SGT Miroslav Maric	Discourtesy: Sergeant Miroslav Maric spoke discourteously to § 87(2)(b)	
C.SGT Miroslav Maric	Discourtesy: Sergeant Miroslav Maric spoke discourteously to § 87(2)(b)	
D.SGT Miroslav Maric	Discourtesy: Sergeant Miroslav Maric acted discourteously toward § 87(2)(b)	
E.SGT Miroslav Maric	Off. Language: Sergeant Miroslav Maric made remarks to § 87(2)(b) based upon race.	
F.SGT Miroslav Maric	Abuse: Sergeant Miroslav Maric frisked § 87(2)(b)	
G.POM Harris Haskovic	Abuse: Police Officer Harris Haskovic frisked § 87(2)(b)	
H.POM Harris Haskovic	Abuse: Police Officer Harris Haskovic searched § 87(2)(b)	
I.SGT Miroslav Maric	Discourtesy: Sergeant Miroslav Maric spoke discourteously to § 87(2)(b)	
J.SGT Miroslav Maric	Abuse: Sergeant Miroslav Maric searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
K.SGT Miroslav Maric	Discourtesy: Sergeant Miroslav Maric spoke discourteously to § 87(2)(b)	
L.SGT Miroslav Maric	Discourtesy: Sergeant Miroslav Maric spoke discourteously to § 87(2)(b)	

### Case Summary

On April 23, 2017, § 87(2)(b) filed this complaint with IAB. On May 1, 2017, the CCRB received this complaint via IAB log # 17-15494.

On April 23, 2017, at approximately 12:30 a.m., § 87(2)(b) pulled into the Speedway Gas Station, located at 1201 Webster Avenue in the Bronx, after having picked up his cousin, § 87(2)(b) from his house at § 87(2)(b). Before making a left turn into the gas station, § 87(2)(b) saw an unmarked police car driving toward him along Webster Avenue. As soon as he pulled into the gas pump and began opening his driver's side door, § 87(2)(b) noticed an unmarked police car behind him with its' emergency lights flashing (**Allegation A**). Two plainclothes officers, identified as Sergeant Miroslav Maric and Police Officer Harris Haskovic of the 44<sup>th</sup> Precinct, exited the car and Sgt. Maric allegedly yelled, "Get the fuck back in the car" (**Allegation B**). § 87(2)(b) complied and closed his door.

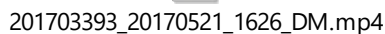
Sgt. Maric and PO Haskovic then approached § 87(2)(b)'s car. Sgt. Maric approached his driver's side window and asked for § 87(2)(b)'s license. Sgt. Maric then allegedly said, "Why the fuck you throw yours hands up for?" (**Allegation C**). § 87(2)(b) gave Sgt. Maric his license, his father's PBA card, and his registration. Sgt. Maric allegedly said, "I didn't ask for this shit" and threw § 87(2)(b)'s registration and his father's PBA card back at § 87(2)(b) (**Allegation C continued** and **Allegation D**). In response to § 87(2)(b) telling Sgt. Maric that his father was a police officer and his mother worked at the District Attorney's office, Sgt. Maric allegedly said, "I don't give a fuck who you are. I don't give a fuck about your mother and your father" (**Allegation C continued**).

Sgt. Maric asked § 87(2)(b) if he had a criminal record and § 87(2)(b) told him he did not. Sgt. Maric then ran § 87(2)(b)'s license on his agency issued cell phone and showed § 87(2)(b) his arrest photograph from his previous arrest. Sgt. Maric then allegedly said, "Stop fucking lying to me asshole" (**Allegation C continued**). Sgt. Maric then asked § 87(2)(b) if he and § 87(2)(b) smoked marijuana. § 87(2)(b) said that he did not and told Sgt. Maric he would have to ask § 87(2)(b) if he smoked marijuana. Sgt. Maric asked § 87(2)(b) what he was doing in the Bronx and when § 87(2)(b) attempted to explain why he was in the Bronx, Sgt. Maric allegedly said, "Are you even American?" (**Allegation E**).

Sgt. Maric then told § 87(2)(b) to get out of the car. When § 87(2)(b) asked why, Sgt. Maric allegedly said, "Shut the fuck up" (**Allegation C continued**). § 87(2)(b) got out of his car and Sgt. Maric frisked his torso, waist, pockets, and legs (**Allegation F**). § 87(2)(b) saw that PO Haskovic was patting down § 87(2)(b) around his torso and pockets (**Allegation G**). § 87(2)(b) then saw PO Haskovic take out a small amount of marijuana from § 87(2)(b)'s right pants pocket (**Allegation H**). The officers then took § 87(2)(b) and § 87(2)(b) to the back of the car and told them to face away from § 87(2)(b)'s car. § 87(2)(b) told Sgt. Maric he could not search § 87(2)(b)'s car and Sgt. Maric allegedly replied, "You telling me what the fuck to do?" (**Allegation I**). PO Haskovic stood with § 87(2)(b) and § 87(2)(b) while Sgt. Maric searched § 87(2)(b)'s car (**Allegation J**).

After he had searched § 87(2)(b)'s car, Sgt. Maric told § 87(2)(b) and § 87(2)(b) to get back in the car. § 87(2)(b) was then placed under arrest for possessing a knife, which

Surveillance video footage of this incident was obtained from the Speedway Gas Station. A SnagIt copy of the footage is embedded below. The full video can be viewed in IA #107.



- [illegible]

- This is the first CCRB complaint involving § 87(2)(b) (Board Review 4).
- This is the first CCRB complaint involving § 87(2)(b) (Board Review 5).
- Sgt. Maric has been a member of the NYPD for 14 years and has 20 prior CCRB allegations pleaded against him involving seven cases. Sgt. Maric has one substantiated prior allegation, Abuse of Authority – Frisk, in case number 200701549. Charges were recommended by the CCRB and no disciplinary action was taken by the NYPD. There is currently one open case against Sgt. Maric, case number 201702185, involving five allegations; Abuse of Authority – Vehicle Stop, Abuse of Authority – Vehicle search, Abuse of Authority – Frisk, Abuse of Authority – Search (of a person), § 87(2)(g), § 87(4-b). See officer history (Board Review 6).

- PO Haskovic has been a member of the NYPD for four years and has seven prior CCRB allegations pleaded against him involving four cases. PO Haskovic has two substantiated prior allegations, Abuse of Authority – Frisk, and Abuse of Authority – Search (of a person), in case number 201406199. Command Discipline A was recommended by the CCRB for both allegations, and PO Haskovic was penalized with formalized training for the Abuse of Authority – Frisk allegation. No disciplinary action was taken by the NYPD for the Abuse of Authority – Search (of a person) allegation. PO Haskovic currently has two open CCRB complaints. In case number 201702185, PO Haskovic has two allegations, Abuse of Authority – Refusal to provide name/shield number and Discourtesy – Word, pleaded against him. In case number 201705013, PO Haskovic has one allegation, Abuse of Authority – Vehicle stop, pleaded against him. See officer history (**Board Review 7**).

### Potential Issues

The investigation was unable to obtain a statement from § 87(2)(b) regarding this incident. § 87(2)(b) was deemed uncooperative with the investigation after the contact attempts to him were exhausted.

### Findings and Recommendations

**Allegation A – Abuse of Authority: Sergeant Miroslav Maric stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation B – Discourtesy: Sergeant Miroslav Maric spoke discourteously to § 87(2)(b)**

On April 23, 2017, at approximately 12:30 a.m., § 87(2)(b) was driving from § 87(2)(b) in the Bronx, where he had picked up § 87(2)(b) to his home on Staten Island (**Board Review 8**). § 87(2)(b) observed an unmarked police car driving toward him along Webster Avenue. § 87(2)(b) then realized that he was very low on gas and turned into the Speedway Gas Station, located at 1201 Webster Avenue in the Bronx. § 87(2)(b) indicated his turn approximately 100 feet before turning into the gas station. § 87(2)(b) also testified that his car was in good working order and that he did not commit any traffic violations on this day.

§ 87(2)(b) pulled up to the gas pumps and as he was opening his door, saw the unmarked police car he had just seen driving toward him on Webster Avenue behind him with its' lights flashing. Sgt. Maric, who had just gotten out of the front driver's seat, allegedly said to § 87(2)(b) "Get the fuck back in the car." § 87(2)(b) complied and closed his door.

PO Haskovic testified that while driving north of Webster Avenue, he observed a black pickup truck travelling at a "high speed for that time of night" before making an abrupt turn into a gas station without signaling (**Board Review 9**). PO Haskovic did not know how fast the pickup truck was moving, but he believed it was travelling at an "abrupt speed". Once they saw the vehicle turn into the gas station, Sgt. Maric and PO Haskovic activated the emergency lights to signal for the car to pull over. There was no discussion between the officers to stop § 87(2)(b). The officers pulled into the gas station directly behind § 87(2)(b) exited the car, and approached the driver's side and passenger front side windows. PO Haskovic did not

hear Sgt. Maric say to § 87(2)(b) “Get the fuck back in the car,” or see § 87(2)(b) open his driver’s side door before the officers approached his car.

Sgt. Maric observed a dark colored pickup overtake his unmarked police car while driving along 167<sup>th</sup> Street before making a right turn onto Webster Avenue (**Board Review 10**). Sgt. Maric believed the vehicle was traveling faster than the city-wide speed limit of 25 mph. Sgt. Maric then saw the vehicle make an abrupt turn into a gas station. § 87(2)(b) indicated his turn as he made the turn, and not approximately 100 feet before making the turn, as traffic law dictates. Sgt. Maric stated that the officers pulled in directly behind the vehicle and he approached the driver’s side window. Sgt. Maric made the decision to stop § 87(2)(b). Sgt. Maric did not recall seeing § 87(2)(b) attempt to open his door before the officers approached and denied saying to § 87(2)(b) “Get the fuck back in the car.”

§ 87(2)(g)

[REDACTED]

**Allegation C – Discourtesy: Sergeant Miroslav Maric spoke discourteously to § 87(2)(b)**

**Allegation D – Discourtesy: Sergeant Miroslav Maric acted discourteously toward § 87(2)(b)**

**Allegation E – Offensive Language: Sergeant Miroslav Maric made remarks to § 87(2)(b) based upon race.**

Sgt. Maric approached § 87(2)(b) s driver’s side window and asked for his license and registration. Sgt. Maric then allegedly said, “Why the fuck you throw your hands up for?” § 87(2)(b) gave Sgt. Maric his license, registration, and § 87(2)(b) s PBA card. Sgt. Maric looked at the documents and then allegedly threw § 87(2)(b) s registration and § 87(2)(b) s PBA card through the window so that they landed in § 87(2)(b) s lap. Sgt. Maric then allegedly said, “I didn’t ask for this shit.” When § 87(2)(b) attempted to explain that § 87(2)(b), Sgt. Maric allegedly said, “I don’t give a fuck who you are. I don’t give a fuck about your mother and your father.” Sgt. Maric then asked § 87(2)(b) if he had a criminal record and § 87(2)(b) told him that he did not have to answer that question. Sgt. Maric then ran § 87(2)(b) s driver’s license on his smart phone. Sgt. Maric then showed § 87(2)(b) his arrest photograph from a previous arrest and allegedly said, “You fucking lying to me asshole.”

Sgt. Maric then asked § 87(2)(b) if he and § 87(2)(b) smoked marijuana. § 87(2)(b) replied that he did not smoke marijuana, but he did not know if § 87(2)(b) did and so Sgt. Maric would have to ask § 87(2)(b) if he smoked marijuana. Sgt. Maric then asked § 87(2)(b) what he was doing in the Bronx since he lives in Staten Island and § 87(2)(b) replied that he had just gotten a tattoo and had picked up § 87(2)(b). Sgt. Maric allegedly replied, “Are you even American?” § 87(2)(b) believed that Sgt. Maric’s question was in reference to his race. Sgt. Maric then commanded § 87(2)(b) to get out of the car and when § 87(2)(b) asked why, Sgt. Maric allegedly told § 87(2)(b) to, “Shut the fuck up.”

PO Haskovic testified that he did not hear Sgt. Maric make any of the aforementioned statements. However, he admitted that he was unable to hear any of the conversation between Sgt. Maric and § 87(2)(b) from the passenger-side window. PO Haskovic did not hear Sgt. Maric use any profanity during this incident. PO Haskovic was also unable to see Sgt. Maric from where he was standing by the passenger-side window due to the height of § 87(2)(b)’s vehicle.

Sgt. Maric denied making any of the statements § 87(2)(b) alleged above or using any profanity towards § 87(2)(b) while speaking to him at his driver’s side window. He denied having any conversation with § 87(2)(b) about his race or asking if he was American. Sgt. Maric also denied throwing § 87(2)(b)’s registration and § 87(2)(b)’s PBA card through the driver’s side window. Sgt. Maric did not recall if he asked for § 87(2)(b)’s registration and did not recall § 87(2)(b) giving him a PBA card with his driver’s license. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation F – Abuse of Authority: Sergeant Miroslav Maric frisked § 87(2)(b)**

**Allegation G – Abuse of Authority: Police Officer Harris Haskovic frisked § 87(2)(b)**

**Allegation H – Abuse of Authority: Police Officer Harris Haskovic searched § 87(2)(b)**

§ 87(2)(b) alleged that after he was ordered out of the car by Sgt. Maric, Sgt. Maric commanded § 87(2)(b) to face his car and place his hands on the car. Sgt. Maric then patted down § 87(2)(b)’s torso, waistband area, his jeans pockets, and his legs. Sgt. Maric did not go inside any of § 87(2)(b)’s pockets. As he was being ordered out of his car, § 87(2)(b) saw § 87(2)(b) being removed from the passenger seat by PO Haskovic. § 87(2)(b) saw PO Haskovic pat down § 87(2)(b)’s arms and waist. § 87(2)(b) saw PO Haskovic go inside § 87(2)(b)’s jean pocket and recover a small zip lock bag of marijuana. The bag was approximately one inch wide by one inch tall. § 87(2)(b) denied carrying marijuana in his car and denied smoking marijuana on the day of the incident. § 87(2)(b) stated, however, that he did not know whether § 87(2)(b) had smoked marijuana on the day of the incident, but stated that he did not smell marijuana on § 87(2)(b) when he got into his car

a few minutes before they were stopped. The sequence of events described by § 87(2)(b) is corroborated by the surveillance video embedded above.

PO Haskovic testified that when he approached § 87(2)(b)'s passenger side window, he could immediately smell the odor of marijuana emanating from the car. PO Haskovic did not recall if the marijuana was fresh marijuana or burnt marijuana, and he was unable to determine the amount of marijuana based solely on the smell. He testified that he knew the smell was marijuana because of his training and experience as a police officer, his marijuana field test training, and because he has conducted marijuana arrests in the past. PO Haskovic then asked § 87(2)(b) if he had any marijuana on his person and § 87(2)(b) replied that he had marijuana on him. PO Haskovic did not recall where he recovered the marijuana from § 87(2)(b) or how much marijuana he recovered from § 87(2)(b). PO Haskovic did not recall if he had to enter § 87(2)(b)'s pocket in order to retrieve the marijuana.

In § 87(2)(b)'s Criminal Court Complaint and Supporting Deposition, as well as his Property Voucher prepared by PO Haskovic on April 23, 2017, PO Haskovic stated that he recovered the marijuana from § 87(2)(b)'s front right pants pocket after § 87(2)(b) had admitted to PO Haskovic that he was in possession of three “baggies” of marijuana (**Board Review 11** and **Board Review 12**).

Sgt. Maric testified that within the first few seconds of speaking to § 87(2)(b) at the driver's side window, he began to smell an odor of dried marijuana emanating from the car. Sgt. Maric could not tell the amount of marijuana in the car based on the smell and he did not see any marijuana in plain view inside the car. After speaking to § 87(2)(b) for a few minutes, Sgt. Maric ordered § 87(2)(b) out of the car and patted him down around his waist and down his legs. The purpose of frisking § 87(2)(b) was to determine if he was armed for both his and PO Haskovic's safety. Sgt. Maric could not tell if § 87(2)(b) was armed because of the clothing he was wearing. When asked to describe § 87(2)(b)'s clothing further, Sgt. Maric stated he did not recall what § 87(2)(b) was wearing, just that it had been cold that night and so § 87(2)(b) was most likely wearing bulky clothing. Sgt. Maric stated that he also patted down § 87(2)(b) because he had been “changing his story” and his answers to Sgt. Maric's earlier questions, which heightened his suspicion.

*People v. Chestnut* 351 N.Y.S.2d 26 states that the smell of marijuana smoke provided the officers with probable cause to search the car and its' occupants. Exigent circumstances existed because the car was readily moveable, and the occupants had been alerted (**Board Review 13**). In this case, the smell of marijuana, determined to be such by the officers' training and experience, there was a reasonable belief before the search began that the automobile and/or the occupants contained contraband or evidence of a crime, and therefore the search of the vehicle and its' occupants could lawfully proceed without a warrant.

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(g)

**Allegation I – Discourtesy: Sergeant Miroslav Maric spoke discourteously to § 87(2)(b)**

After § 87(2)(b) and § 87(2)(b) were taken to the back of § 87(2)(b)'s car, § 87(2)(b) saw Sgt. Maric begin to walk towards his driver's side window. § 87(2)(b) then told Sgt. Maric that he did not have consent to search his car. Sgt. Maric allegedly replied, "You telling me what the fuck to do?"

PO Haskovic testified that he did not recall hearing § 87(2)(b) tell Sgt. Maric that he could not search his car and that he did not recall hearing Sgt. Maric reply, "You telling me what the fuck to do?"

Sgt. Maric denied saying, "You telling me what the fuck to do," or having any conversation with § 87(2)(b) about whether or not Sgt. Maric could search his car. § 87(2)(g)

**Allegation J – Abuse of Authority: Sergeant Miroslav Maric searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(b) testified that after he was placed at the back of the car, he saw Sgt. Maric search around the front driver's seat, rear driver's side passenger seat, the front passenger seat, and the rear passenger side seat. He further stated that Sgt. Maric recovered a gravity knife from inside his closed tool box, which was located on the rear passenger seat of the car. § 87(2)(b) could not see what compartments Sgt. Maric had searched inside his car from where he was standing; however, when he later re-entered his car, § 87(2)(b) noticed that some of his belongings had been removed from their various compartments.

PO Haskovic testified that he was unable to see where Sgt. Maric had searched inside the vehicle because he was standing with § 87(2)(b) and § 87(2)(b) at the back of the car and was unable to see through the rear windshield due to the dark tint. Sgt. Maric later told PO Haskovic that he had recovered a gravity knife, which was determined later to belong to § 87(2)(b) from the map pocket on the back of the front passenger seat. PO Haskovic's statement regarding the location from which the gravity knife was recovered was corroborated by § 87(2)(b)'s Criminal Court Complaint and Supporting Deposition, and Property Voucher completed by PO Haskovic in regards to this incident on April 23, 2017.

Sgt. Maric stated that he searched § 87(2)(b)'s car after smelling marijuana emanating from the vehicle. When asked to describe where he searched in the car, Sgt. Maric stated he did not recall, but believed that he had searched around each of the seats and "wherever you could



reasonably conceal marijuana.” Sgt. Maric searched the map pocket on the back of the front passenger seat and recovered § 87(2)(b) s gravity knife. When asked why he searched the map pocket, Sgt. Maric stated that marijuana could reasonably be concealed inside the pocket. § 87(2)(b) was subsequently arrested for § 87(2)(b) as a result of Sgt. Maric recovering the gravity knife from inside the car.

*People v. Chestnut 351 N.Y.S.2d 26* states that the smell of marijuana smoke provided the officers with probable cause to search the car and its’ occupants. Exigent circumstances existed because the car was readily moveable, and the occupants had been alerted. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

*People v. Cuffie 972 N.Y.S.2d 383* states that the officers had probable cause to search the vehicle because they testified that they approached the vehicle from opposite sides and each detected the odor of marijuana emanating from inside the vehicle through the front open windows (**Board Review 14**). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

*People v. Rivera 8 N.Y.S.3d 138* states that the search of the area under the car’s center console came within the proper scope of a search pursuant to the automobile exception and was particularly reasonable in light of the officer’s observation that the console appeared to have been altered to create a hiding place for drugs (**Board Review 15**).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation K – Discourtesy: Sergeant Miroslav Maric spoke discourteously to** § 87(2)(b)

§ 87(2)(b)

**Allegation L – Discourtesy: Sergeant Miroslav Maric spoke discourteously to** § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) stated that after Sgt. Maric searched his vehicle, he and § 87(2)(b) were placed back inside § 87(2)(b) s car. Sgt. Maric then came to the driver’s side door and ordered § 87(2)(b) out of the car. § 87(2)(b) complied and was told by Sgt. Maric that he was being placed under arrest for § 87(2)(b) that was recovered inside the car. § 87(2)(b) then volunteered that the knife was actually his and not § 87(2)(b) s. While Sgt. Maric took the handcuffs off § 87(2)(b) PO Haskovic ordered § 87(2)(b) out of the front passenger seat and placed him in handcuffs. § 87(2)(b) then asked Sgt. Maric if § 87(2)(b) could be released with a Desk Appearance Ticket and Sgt. Maric allegedly replied, in reference to § 87(2)(b) “No, this asshole is going

through the system.” § 87(2)(b) replied, “Really, for a knife?” Sgt. Maric then allegedly said, “Yep. Now get your gas and get the fuck out of here.”

PO Haskovic testified that he did not hear Sgt. Maric say to § 87(2)(b) “No, this asshole is going through the system,” in reference to § 87(2)(b) nor did he hear Sgt. Maric say, “Now get your gas and get the fuck out of here.”

Sgt. Maric denied saying in reference to § 87(2)(b) “No, this asshole is going through the system,” and he did not recall any conversation between him and § 87(2)(b) about whether § 87(2)(b) could be released with a desk appearance ticket. Sgt. Maric also denied saying, “Now get your gas and get the fuck out of here.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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Squad: 9

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date